

Date Mailed
December 16, 1998

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Administrative Rules Regarding Various Dispute
Resolution Procedures Under Federal and State Law

1-AC-181

**NOTICE OF INVESTIGATION AND FURTHER DEVELOPMENT OF RULES
PHASE 2**

Written Comments Due: February 16, 1999, by Noon	Address Comments To: Lynda L. Dorr, Secretary to the Commission
FAX Comments Due: February 15, 1999, by Noon	Public Service Commission P.O. Box 7854 Madison, WI 53707-7854 Fax No. (608) 266-3957

The federal Telecommunications Act of 1996 (Act) and 1993 Wisconsin Act 496 established the requirement that telecommunications service providers negotiate agreements with competitors which allow the competitors to interconnect with or use the provider's facilities and services in order for the competitors to provide telecommunications services to their customers. The Act also established procedures for negotiation, arbitration, and approval of agreements. Among other duties and responsibilities, state commissions were mandated to mediate, arbitrate, and approve interconnection agreements under the Act. Courts have held, and s. 196.199(2)(a), Stats., created by 1997 Wisconsin Act 218 and effective January 1, 1999, provides that the state also has the right to enforce existing agreements. As part of its enforcement power, the Commission may investigate whether a party to an interconnection agreement has failed to comply with the agreement.

On May 23, 1996, the Commission issued its Interim Procedures for Negotiations, Mediation, Arbitration, and Approval of Agreements (Interim Procedures) to implement state participation in developing competitive local exchange markets, as contemplated by the Act. The Commission recognized that, when these Interim Procedures were implemented, they would need to be modified based on the Commission's experience and then codified into permanent rules.

Section 196.219(5), Stats., requires that the Commission develop rules establishing a procedure for Alternate Dispute Resolution (ADR) in cases involving complaints filed against a telecommunications utility or provider. Additionally, 1997 Wisconsin Act 218 allows the Commission to develop rules requiring that interconnection agreements include ADR provisions (s. 196.199(2)(b), Stats.). 1997 Wisconsin Act 218 also requires that the Commission develop rules establishing standards and procedures for shortening a required 5-day controversy resolution opportunity (s. 196.199(3)(b)2., Stats.).

At its open meeting of May 5, 1998, the Commission approved a Statement of Scope proposing the development of rules regarding various dispute resolution procedures under federal and state law. The objective of the proposed rules is to implement the Commission's federal and state statutory authority to resolve various disputes between telecommunications providers and their customers.

Also mandated by 1997 Wisconsin Act 218 (s. 196.199(2)(c), Stats.), an earlier rule addressed the related issue of whether an alleged failure to comply with an interconnection agreement has a significant adverse effect on another party to the agreement. (See Notice of Hearing in this docket, available under "Telecommunications Industry Notices" at www.psc.state.wi.us/notices/ind-no98.htm.) The Commission is now preparing to develop permanent rules about the remaining areas concerning alternate dispute resolution.

INPUT EXPRESSLY INVITED

The Commission specifically invites telecommunications providers and interested others to provide comments and information concerning this proceeding. Interested persons may consider the Interim Procedures and Statement of Scope as starting points for further discussion. (See Interim Procedures available at www.psc.state.wi.us/writings/papers/tele/intproc.htm and Statement of Scope available at www.legis.state.wi.us/rsb/code/register/reg509b.pdf.) Among the topics about which interested parties may wish to comment or provide information are:

- ?? Expectations concerning the rules specified in 1997 Wisconsin Act 218.
- ?? The desirability and feasibility of ADR and expedited arbitration procedures and how processes could be changed to allow for faster resolution while still providing adequate due process.
- ?? Alternate dispute resolution (ADR), expedited arbitration, or similar procedures established by other states.
- ?? Whether the Interim Procedures should be modified and, if so, how.

?? How the factors for determining “substantial adverse effect” (for purposes of injunctive relief under s. 196.199(3)(e)2., Stats., as created by 1997 Wisconsin Act 218) should differ from the factors for determining “significant adverse effect” (for purposes of expediting the process under s. 196.199(3), Stats., as created by 1997 Wisconsin Act 218).

ENVIRONMENTAL ANALYSIS

This is a Type III action under s. PSC 4.10(3), Wis. Admin. Code. No unusual circumstances suggesting the likelihood of significant environmental consequences have come to the Commission’s attention. Neither an environmental impact statement under s. 1.11, Stats., nor an environmental assessment is required.

WRITTEN COMMENTS

NOTICE IS HEREBY GIVEN that written comments and suggestions may be submitted until **noon on February 16, 1999 (February 15, 1999, by noon, if filed by fax).**

All written comments must include a reference on the filing to docket 1-AC-181 Phase 2. **File by one mode only.**

If filing by mail, courier, or hand delivery: Address comments to Lynda Dorr, Secretary to the Commission, Public Service Commission, 610 North Whitney Way (53705), P.O. Box 7854, Madison, WI 53707-7854. Industry parties should submit an original and 15 copies. Members of the public need only file an original. File by **February 16, 1999, at noon.**

If filing by fax: Send fax comments to (608) 266-3957. Address comments to Lynda Dorr, Secretary to the Commission. Fax filing cover sheets **MUST** state **“Official Filing,”** the docket number (1-AC-181 Phase 2), and the number of pages (limited to 20 pages for fax comments). File faxes by **February 15, 1999, at noon.**

Questions regarding this matter should be directed to Nick Linden, Assistant Administrator, Telecommunications Division, at 608-266-8950, or by email at linden@psc.state.wi.us. Hearing-or speech-impaired individuals may also use the Commission’s TTY number, (608) 267-1479.

The Commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to

Docket 1-AC-181

participate in this proceeding or who needs to get this document in a different format should contact Nick Linden, as indicated in the previous paragraph, as soon as possible.

Dated at Madison, Wisconsin, _____

By the Commission:

Lynda L. Dorr
Secretary to the Commission

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